

# CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1071770

## SUMMARY OF INCIDENT

On September 28, 2014, at approximately 2:30 PM at XXXX S. 57<sup>th</sup> Avenue, Cicero, Illinois, Officer A was involved in a domestic dispute with Civilian 1 that resulted in Officer A getting arrested and charged with domestic battery. The incident resulted in Sergeant A initiating a complaint register number with the Independent Police Review Authority (“IPRA”) against Officer A.<sup>1</sup>

## ALLEGATIONS

It is alleged that on September 28, 2014, at approximately 2:30 PM at XXXX S. 57<sup>th</sup> Avenue, Cicero, Illinois, the accused Officer A was involved in a domestic dispute with Civilian 1 that resulted in:

1. Failing to report for duty;
2. Getting arrested and charged with domestic battery; and
3. Failing to immediately notify the Department of his arrest.

## APPLICABLE RULES AND LAWS

**Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department

**Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals

**Rule 6:** Disobedience of an order or directive, whether written or oral

**Rule 8:** Disrespect to or maltreatment of any person, while on or off duty

**Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty

**Rule 20:** Failure to submit immediately a written report that any member, including self, is under investigation by any law enforcement agency other than the Chicago Police Department

**Rule 21:** Failure to report promptly to the Department any information concerning any crime or other unlawful action

**Rule 22:** Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department

**Rule 27:** Failure to report promptly any anticipated absence from duty

**Rule 28:** Being absent from duty without proper authorization

**Rule 29:** Failure to be prompt for duty assignment, including roll call and court appearance

**Rule 30:** Leaving duty assignment without being properly relieved or without proper authorization

## **G01-01: Mission Statement and Core Values**

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<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

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## **S08-01-02: Special Situations Involving Allegations of Misconduct**

### **INVESTIGATION**

**Officer A's audio statement** to COPA was conducted on November 20, 2017. Officer A stated that on September 28, 2014 at approximately 2:30 PM, Civilian 1 called and sent messages to inform Officer A that Civilian 1 was picking up their son. Officer A stated that Civilian 1 arrived at XXXX S. 57<sup>th</sup> Avenue, Cicero, Illinois and demanded to bring their son outside. Officer A said he took their son outside and put him inside the vehicle while Civilian 1 told Officer A to hurry up. Officer A stated that he then went to get the son's blanket from inside the house. Officer A stated that Civilian 1 locked the doors by the time he returned to the vehicle. Officer A stated that Civilian 1 aggressively exited the vehicle stating, "give me the blanket." Officer A stated he wanted to give their son the blanket himself. Civilian 1 entered her vehicle and while she proceeded to drive away, the vehicle "went past [Officer A's] foot." Officer A said he then hit the vehicle's window with the back of his hand. Officer A stated that Civilian 1 exited her vehicle and approached Officer A's vehicle with an object in her hand. Officer A said he believed Civilian 1 was going to scratch his vehicle, so Officer A stood in between Civilian 1 and his vehicle to block it. Officer A indicated that Civilian 1 scratched Officer A multiple times. Officer A stated he "dipped his head to protect [his] face." Officer A told COPA he had scratches on his face and back of his head. Officer A stated he kept his arms out trying to protect his vehicle and himself. As Civilian 1 swung at Officer A, he stated he moved out of the way and that is when Civilian 1 slipped and fell to the ground. Officer A stated he heard Civilian 1 say she was going to call the police. Officer A said that his friend, Civilian 2, who was inside the house, witnessed Officer A and Civilian 1's interaction.

Officer A stated that a Cicero officer called and told him to come into the station. Officer A stated he went to the Cicero station with Civilian 2. Officer A said he told Cicero that Civilian 1 attacked him, he had marks on his face, and had a witness for corroboration. An officer from Cicero arrested Officer A and charged him with domestic battery. Officer A stated he was arrested on September 28, 2014, kept in custody for two days, and released on September 30, 2014. Officer A said his domestic battery charge was dismissed.

Officer A stated he went to MacNeal Hospital from Cicero lockup on the night of September 28, 2014. He stated he was scheduled to begin work at 10:30 PM that night. He called the Watch Commander/Lieutenant on-duty, Lieutenant A, to inform her that he "won't be into work today." He specified that he told Lieutenant A that he got into an argument with his son's mother and that he is "physically and emotionally not well." Officer A stated that Lieutenant A "excused" him from work for September 29, 2014. Officer A stated he did not report for duty on September 30, 2014. He further stated that he did not report to roll call, did not notify anyone of his absence, and that it was not his day-off group. Officer A indicated that Cicero did not allow him a phone call while in lock-up, but did allow a phone call while at the hospital.

Officer A stated he was released on September 30, 2014 around late morning/early afternoon. Once released, Officer A stated he called Lieutenant B, who was the 10<sup>th</sup> District Watch Commander. Officer A indicated that Lieutenant B has since retired. When asked about the conversation with Lieutenant B, Officer A stated, "before [Officer A] can get anything out,

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[Lieutenant B] said we already know what happened.” Officer A stated, “he never found out how they were notified.” Officer A stated that he did not notify the Department in writing of his arrest or domestic battery charge. Officer A stated he was ordered to go to the Internal Affairs Department (“IAD”)<sup>2</sup> by Lieutenant C to turn in his star, identification, and shield. (Att. 45)

The **Initiation Report**, authored by Sergeant A of the 10<sup>th</sup> District on September 30, 2014, lists Officer A as the accused member with the following allegations: failure to report for duty; arrested and charged with domestic battery; and failure to immediately notify the Department. The report discusses that on September 30, 2014, Officer A was scheduled for assignment on Beat XXXX, 1<sup>st</sup> Watch. When Officer A failed to appear in roll call, Lieutenant A attempted to contact Officer A via telephone but she was unable to reach him. Lieutenant A also contacted Officer A’s brother, Civilian 3, who is listed as the emergency contact, but he did not answer. Lieutenant D conducted a well-being check at Officer A’s residence, but Lieutenant D was unsuccessful in locating Officer A at the location. Officer A never arrived nor contacted anyone at the 10<sup>th</sup> District during his tour. At 8:30 AM, Lieutenant B contacted Civilian 3, who related that Officer A was arrested in Cicero, IL. Lieutenant B confirmed this information with Cicero who also related that Officer A was charged with domestic battery on September 28, 2014 at 2:54 PM. (Att. 21)

Officer A’s **Attendance and Assignment Sheet** (“A&A Sheet”) shows that he was not present for work on September 30, 2014 being categorized as “79 absent without permission w/o pay” meaning “Member does not show up for a scheduled tour without any authorization. Member will not be paid.” It also states that Officer A was released sick on September 29, 2014 at 1:00 AM categorized as “81 CU – Date Off Comp Time” meaning “Authorized day off by use of compensatory time that has been previously earned.” (Att. 26)

IPRA contacted witness **Civilian 2** via telephone and mail numerous times; however, the attempts were met with negative results. (Atts. 33, 38, 46)

IPRA contacted **Civilian 1** via telephone and mail numerous times. She stated she does not wish to give a statement to IPRA. (Atts. 34, 36, 37, 38, 46)

The **Bureau of Internal Affairs’ (“BIA”)** **Synoptic Report** dated September 30, 2014 indicates that Officer A was relieved of his police powers pending investigation of log number 1071770. (Att. 4)

Officer A was given his **Notification of Duty Restrictions** on September 30, 2017. (Att. 6)

The **Cicero Police Department (“Cicero”)** **Booking Sheet** indicates Officer A was arrested on September 28, 2014 at 5:00 PM for domestic battery. (Att. 11)

The **Cicero General Report Form** states that a domestic battery offense occurred on September 28, 2014 at 2:30 PM on the public way and it was reported on the same date at 2:54 PM. The report lists Civilian 1 and Civilian 2 as persons involved along with Officer A. It indicates

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<sup>2</sup> Between 2011 and 2012, the Chicago Police Department renamed the Internal Affairs Department (“IAD”) into the Bureau of Internal Affairs (“BIA”) to fit consistently within “Bureaus.”

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Civilian 1 had a bump on her forehead, Officer A had scratches on his head and face, and Civilian 2 was a witness. The report indicates that Officer A was arrested at 5:00 PM. The narrative section and **Supplement Form** summarizes the incident. Civilian 1 related to a Cicero officer that on September 28, 2014, Civilian 1 advised Officer A through email that Civilian 1 would pick up their son by just pulling up to the front of the home. Eventually Officer A came outside with their son and strapped him in the car. Officer A went back inside to get their son's blanket, and Civilian 1 closed and locked the vehicle doors. Officer A refused to give the blanket to Civilian 1 and told Officer A to keep it. Civilian 1 started to drive away at which time Officer A punched Civilian 1's window. Civilian 1 exited her vehicle and advised Officer A that Civilian 1 would call the police. Officer A then charged towards Civilian 1, grabbed her by the hair, and "head butted" her. Civilian 1 screamed and scratched Officer A in the back of the head. Officer A then pushed her down to the ground. The report states that the officer observed a small light discolored bump on Civilian 1's forehead.

The report states that Officer A came to the police department after speaking with an officer because he wanted to "give his side of the story since he is the victim." Officer A told the officer that Civilian 1 would not allow the time change to pick up their son. Officer A stated as he was hugging their son, Civilian 1 hit the gas and advised him to hurry up. Officer A went inside to get their son's blanket and when he came back outside and attempted to open the door, Civilian 1 already locked it. Civilian 1 began to pull away as Officer A was standing next to the vehicle. As Civilian 1 was pulling away, Officer A hit the vehicle with the back of his hand. Civilian 1 stopped the car and exited her vehicle screaming. Civilian 1 then went towards Officer A's vehicle that was parked on the street. Officer A got in between his vehicle and Civilian 1. Civilian 1 began swinging her arms to which Officer A lifted his arms up by his face. Civilian 1 scratched the left side of Officer A's face.

The Cicero officer met with witness Civilian 2 who related he could see the interaction between Officer A and Civilian 1 from inside the house. Civilian 2 stated Civilian 1 began to drive off, which made Civilian 2 scared because he thought Officer A could have gotten hit. Civilian 2 witnessed Officer A slap the vehicle, and then witnessed Civilian 1 slam on her breaks and stop the vehicle. Civilian 2 observed Civilian 1 yelling and cursing and walk towards Officer A's vehicle. Civilian 2 also noticed a large set of keys in Civilian 1's fist. Civilian 2 told the officer that Officer A got in between Civilian 1 and his vehicle. Civilian 2 stated that it looked as if Civilian 1 hit Officer A because Civilian 1's hand went over Officer A's head and then Officer A "winced in pain." The report stated that, based on the evidence, Officer A was arrested for domestic battery. (Att. 14)

The **Cicero General Report Form – Medical Transport** states that Officer A needed medical attention for shortness of breath and chest pains at 7:03 PM. Cicero Fire Department paramedics took Officer A to MacNeal Hospital. The report indicates that while waiting for treatment, Officer A requested a telephone call to his employer. The telephone call was arranged at 9:00 PM. Officer A was transported back to Cicero lock-up. (Att. 15)

IPRA requested **Evidence Technician Photographs**, Case #14-13437, from Cicero. The photographs depict scratches on the left side of Officer A's face and scratches on the back of

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Officer A's head. The photographs seem to depict a discolored bump on Civilian 1's forehead. (Att. 18)

Officer B on behalf of Civilian 1 filed a **criminal complaint** against Officer A for committing the offense of domestic battery in that Officer A "without legal justification, knowingly and intentionally caused bodily harm to Civilian 1 being the ex- girlfriend with a child in common, in that he grabbed her by the hair and head butted her in the forehead, then pushing her to the ground." (Att. 19)

Officer A's **criminal court case docket**, Case # XX DV XXXXX, indicates that he was charged with domestic battery and was in custody. The docket indicates that on September 30, 2014, the case was dismissed and the court ordered Officer A "to be released on this case only." (Att. 8 and 10)

## ANALYSIS/CONCLUSION

COPA recommends a finding of Sustained for **Allegation #1** against Officer A, that he failed to report for duty on September 30, 2014. The initiation report states that Officer A was scheduled for assignment on September 30, 2014, 1<sup>st</sup> Watch. Officer A failed to appear in roll call. He never arrived nor contacted anyone at the 10<sup>th</sup> District during his scheduled tour. More importantly, the A&A Sheet confirms that Officer A was not present for scheduled duty on September 30, 2014. It states that he did not have authorization or approval to be absent. In Officer A's statement, he admitted that he did not report to duty on September 30, 2014. He further stated that he did not report in roll call, did not notify anyone of his absence, and it was not his day-off group.

Officer A indicated that Cicero did not allow him a phone call while in lock-up, however, Cicero did allow him a phone call while at the hospital. At this time, Officer A did not inform Lieutenant A that he was in custody with Cicero. Instead, he specified that he got into an argument with Civilian 1 and that he was "physically and emotionally not well" to report to duty on September 29, 2014. If Officer A informed Lieutenant A that he got arrested and was in custody, the Department would have known there was a possibility that he would be unable to report to duty on September 30, 2014. Therefore, COPA recommends a finding of Sustained for Allegation #1 against Officer A.

COPA recommends a finding of Not Sustained for **Allegation #2** against Officer A, that he was arrested and charged with domestic battery. Although Officer A was arrested and charged with domestic battery, the court entered an order of nolle prosequi, which indicates that the Cook County State's Attorney's Office is not prosecuting the case. A review of the facts as set forth in the Cicero Police Department's arrest report do not fully illuminate the probable cause for Officer A's arrest. While it is factual that he was arrested, the validity of said arrest is uncertain and there is insufficient evidence to prove or disprove that his arrest was proper. Since there was no criminal prosecution, COPA cannot give credence to the veracity of the arrest. Thus, COPA recommends a finding of Not Sustained for Allegation #2 against Officer A.

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COPA recommends a finding of Sustained for **Allegation #3** against Officer A, that he failed to immediately notify the Department of his arrest. According to S08-01-02 Section V, “Department members subjected to a physical arrest by any law enforcement agency or governmental or lawful investigatory entity, will *immediately submit a To-From-Subject report* [emphasis added], including the Log Number (if known) to their exempt unit commanding officer...” On September 28, 2014, Officer A was physically arrested by the Cicero Police Department. After Officer A was released, he called Lieutenant A on September 30, 2014, but Officer A did not submit anything in writing to the Department. In his statement, Officer A admitted that he did not notify the Department in writing of his arrest or domestic battery charge. Therefore, COPA recommends a finding of Sustained for Allegation #3 against Officer A.

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Investigator

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Supervising Investigator

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Deputy Chief Investigator